

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RONY ZAKARIA,

Plaintiff,

- against -

GUARDIAN NEWS & MEDIA LLC,

Defendant.

Docket No. 17-cv-4538

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Rony Zakaria (“Zakaria” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Guardian News & Media LLC (“Guardian” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of five copyrighted photographs of the Indonesian teenage girl mental band called Voice of Baceprot, owned and registered by Zakaria, an award-winning Jakarta based photojournalist. Accordingly, Zakaria seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Zakaria is an award-winning professional photojournalist having a usual place of business at Jalan Kebon Jeruk No. 50A Rawa Belong, Palmerah, Jakarta Barat 11480, Indonesia. His awards, grants and fellowships include the National Press Photographers Best of Photojournalism, the Mochtar Lubis Award Grant, the Roberto del Carlo Award, First Prize in the Tempo Best of Photojournalism, Konrad Adenauer Asian Center of Journalism Fellowship and United Nations FAO Media Partnership Grant. Zakaria's works has appeared in exhibitions such as the Photolux Festival, Beijing Photo Festival, Foreign Correspondence Club, Forum Fotografie, Singapore International Photo Festival and many more.

6. Upon information and belief, Guardian is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 315 West 36th Street, 8th Floor, New York, New York 10018. Upon information and belief, Guardian is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Guardian has owned and operated a website at the URL: www.theguardian.com (the "Website") and has owned and operated their daily newspaper entitled The Guardian (the "Newspaper").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. Zakaria photographed the Indonesian mental band Voice of Baceprot (the "Photographs"). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Zakaria is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs have a pending United States Copyright application number of 1-539841829. See Exhibit B.

10. The fee has been paid to the Copyright Office and the works have been deposited with the Copyright Office.

B. Defendant's Infringing Activities

11. Upon information and belief, on or about June 9, 2017, Guardian ran an article on the Website entitled *The schoolgirl thrash metal band smashing stereotypes in Indonesia*. See <https://www.theguardian.com/global-development/2017/jun/09/the-schoolgirl-thrash-metal-band-smashing-stereotypes-java-indonesia-voice-baceprot>. The article prominently featured the Photographs. A true and correct copy of the article on the Website is attached hereto as Exhibit C.

12. Upon information and belief, on or about June 10, 2017, Guardian ran an article in the Newspaper entitled *Feel the Noise: the Java schoolgirls blasting their way into thrash metal*. The article prominently featured the Photographs. A true and correct copy of the article in the Newspapers is attached hereto as Exhibit D.

13. Guardian did not license the Photographs from Plaintiff for its articles, nor did Guardian have Plaintiff's permission or consent to publish the Photographs on its Website or Newspaper.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST GUARDIAN)
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Guardian infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website and Newspaper. Guardian is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Guardian have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

18. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and defendant's profits pursuant to 17 U.S.C. § 504(b).

19. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

20. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

21. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Guardian be adjudged to have infringed upon Plaintiff's copyright in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 16, 2017

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